

Amendment No. 1 to HB2469

**Coleman
Signature of Sponsor**

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 3219

House Bill No. 2469*

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 37-5-107, is amended by deleting the current language in its entirety and by substituting instead the following:

(a) All applications, certificates, records, reports, and all legal documents, petitions and records made or information received pursuant to this title and directly or indirectly identifying a child or family receiving services from the department shall be kept confidential and shall not be disclosed, except as allowed by existing statutes, rules or policies, or statutes as they may be amended or as specified in this section.

(b) The department may use or release information in the following circumstances:

(1) The department may utilize any information it has or may acquire to provide services to the child;

(2) The department may release records to a person or entity who may be providing system or program evaluation; and

(3) The department may provide all or part of such written record to any non-offending party or legal guardian and such information may be provided by the parent or legal guardian to any member of the general assembly as may request it.

(c) The department shall release information in the following circumstances:

(1) Upon request, the department shall release records to any child abuse review teams or child fatality review teams that are created or authorized by state law to review the activities of the department or to evaluate or investigate the cause of injury to or death of a child;

(2) The department shall release records to any grand jury or court upon presentation of an appropriate court order;

(3) Upon written request, the department shall release records to any federal, state or local government entity or agent of such entity that has a need for such information in order to carry out its responsibilities under law to protect children from abuse and neglect in compliance with 42 U.S.C. § 5106a(b)(2)(ix); upon written request, the department shall also release records to any member of the general assembly;

(4) The department shall provide for the public disclosure of information about any case that results in a child fatality or near fatality in compliance with 42 U.S.C. §5106a(b)(2)(x);

(5) The department shall release records to any person or entity who provides system or program evaluation at the request of the department; and

(6) The department shall release to the Tennessee commission on children and youth any and all records requested by the commission that the commission believes necessary to perform its duties and responsibilities pursuant to § 37-3-103, particularly for the purpose of evaluating the delivery of services to children and their families served by the department.

(d) Nothing in this section shall ever be construed to permit or require the department to release or disclose the identification of the person making a report of harm in accordance with the law.

(e) Any person or entity, including any state or local governmental entity or agent of such entity, provided access to records or information pursuant to this section shall be required to maintain such records or information in accordance with this section and other state and federal laws regarding confidentiality.

(f) Upon placement of a child in the custody of the department of children's services, all state, county and local agencies shall, notwithstanding any state laws or regulations to the contrary, grant access to any and all records in their possession that

relate to the child for use by the department of children's services to determine a child's condition, needs, treatment or any other area of management; provided, however, that release of health care information must be consistent with the laws and policies of the departments of health and mental health and developmental disabilities. The department of children's services shall comply with federal statutes and regulations concerning confidentiality of records. Any records that are confidential by law upon the enactment of this legislation shall be maintained as confidential by the department of children's services.

(g) Except as otherwise provided pursuant to 20 U.S.C. § 1232g(b)(1), prior to the release of student records, the local education agency must give written notice to the student and parent as required by 20 U.S.C. § 1232g(b)(1), and must provide the parent with a copy of all records released.

(h) Release of drug and alcohol records must comply with federal and state laws and regulations regarding the release of these records.

SECTION 2. Tennessee Code Annotated, Section 37-1-612(b), is amended by deleting the language "Except as otherwise provided in this part or part 4 of this chapter" and by substituting instead the language "Except as otherwise provided in § 37-5-107, this part or part 4 of this chapter".

SECTION 3. Tennessee Code Annotated, Section 37-1-409(a)(1), is amended by deleting the language "Reports of harm made under this part" and by substituting instead the language "Except as otherwise provided in § 37-5-107, reports of harm made under this part".

SECTION 4. This act shall take effect July 1, 2008, the public welfare requiring it.